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STATE FOR E, EB/IPC:DRBEAN, EAP/BCLTV AND EB/ODC
STATE ALSO PASS USTR BURCKY/ALVAREZ AND BRYAN
STATE ALSO PASS USPTO FOR BERESFORD AND URBAN
STATE ALSO PASS LIBRARY OF CONGRESS FOR TEPP
USDOC FOR LASHLEY AND 4431/MAC/AP/OKSA/HPPHO
USDOC ALSO FOR ITA/TD/OTEA/JJANICKE AND ITA/TD/SIF/CMUIR

1E. O. 12958: N/A

TAGS: [ETRD](#) [EINV](#) [ECON](#) [KIPR](#) [VM](#) [IPROP](#)

SUBJECT: VIETNAM: LOCAL BUSINESS KNOWS VALUE OF TRADEMARKS--
SEMINAR A SUCCESS

1. Summary: In a seminar on trademark protection in the U.S. and Vietnam, USG and private speakers introduced the system of trademark registration and enforcement in the US. Well over a hundred local businesspeople attended the seminar in Ho Chi Minh City, which was one of four locations around the country where the seminar was presented. Based on their level of attention and rigorous questioning, these businesspeople understand the importance of trademarks. Acting CG opened the seminar by reminding the audience of the importance the US places on IPR and urged Vietnam to adopt some of the US best practices in trademark registration and enforcement. End Summary

2. On August 13, the USAID-funded Support for Trade Acceleration Project (STAR) in conjunction with the National Office of Industrial Property (NOIP) and the Ministry of Trade, sponsored a seminar on "The Protection of Trademarks in the United States and Vietnam." The seminar was conducted at the request of the GVN which wanted to educate Vietnamese business people on how to register a trademark in the US. U.S. speakers included Ms. Lynne Beresford, Deputy Commissioner for Trademark Examination Policy, and Barbara Kolsun, Senior VP and General Counsel for Kate Spade. Reflecting the importance of the topic, the seminar was opened by Vice Minister of Trade Le Dan Vinh followed by a keynote speech from the Deputy Director General of the NOIP. Well over one hundred local businesspeople attended along with several local officials involved in IPR issues. Local press covered the event in some detail and urged readers to check out the USPTO website.

3. Acting CG opened the seminar by stressing the priority the United States places on IPR. She linked IPR to the future development of Vietnam's economy by reminding the audience that Vietnam's trading partners regard IPR as a high priority issue and one that can influence foreign investment. She acknowledged that the GVN, with partners like the STAR Project, was working to improve laws and regulations related to IPR protection. However, effective enforcement was still a major problem in Vietnam. She encouraged Vietnamese businesses to register their trademarks in the U.S. and offered the U.S. system as a model Vietnam should consider in crafting its system of trademark protection.

NOIP Notes Value of Trademarks

4. Mr. Tran Viet Hung, Deputy Director General of NOIP, urged Vietnamese companies to recognize the value of trademarks by using an iconic U.S. company as an example. Mr. Hung told the audience that the Coca-Cola Company was valued at approximately 60-70 billion dollars. Yet what he called the "real value" of Coca-Cola's assets was only around 15 billion dollars. Mr. Hung stated that the difference in these two numbers was the intangible value of the Coca-Cola Company, built up over the years and in large part represented by the value of its trademark. He then discussed the devaluation of legitimate products by counterfeits through loss of consumer confidence and 'erosion of enthusiasm' among law-abiding companies. Mr. Hung described Vietnam's system of trademark registration, but detailed mention of enforcement actions or procedures was noticeably absent. One revelation from Mr. Hung's speech was that the GVN would begin publicizing trademark applications prior to issuing a decision in order to improve transparency and allow for comment from other parties.

5. According to Mr. Hung, many foreign companies have filed for trademark protection under Vietnamese law. By his count Vietnam has issued almost 9,000 trademarks to foreign applicants. Conversely, he claimed that only 164 trademarks for Vietnamese products have been registered in the United States, with an estimated 54 additional Vietnamese trademarks registered in Europe, Asia, and the former Soviet Union. He hoped that more Vietnamese companies would make the effort to register their trademarks overseas.

U.S. Speakers Describe the U.S. System

6. Ms. Lynne Beresford, Deputy Commissioner for Trademark Examination Policy at the United States Patent and Trademark Office (USPTO), gave an overview of the U.S. legal system as it pertains to trademarks and provided a step-by-step description of the application process. She noted that 16-18% of trademark

applications filed in the U.S. originate from foreign entities. The USPTO representative also led the audience on a tour of www.uspto.gov and walked through the steps to file an electronic application.

17. Numerous questions from the audience indicated the level of interest in registering a trademark in the U.S. Questioners wanted to know: Was an applicant required to retain legal counsel or hire an agent in the U.S. prior to filing for a trademark? Can foreign businesses file on-line? Does the 'confusingly similar' doctrine apply to words in different languages; i.e. could an applicant register the trademark Home Depot provided they used Vietnamese words? Could individuals file for trademarks? Several additional questions requested a clarification of the filing fee cost structure and clarification of who was considered an attorney in the U.S.

18. Barbara Kolsun, Senior Vice President and General Counsel for Kate Spade provided a private industry perspective. Ms. Kolsun detailed her experiences fighting trademark infringement at Kate Spade and previously as head of the Calvin Klein anti-counterfeiting program in North and South America. Much of her presentation recounted enforcement options and tactics, including raids against counterfeiters and legal action in civil and criminal courts. Questions directed to Ms. Kolsun covered the methods and value of trademark enforcement, namely, how U.S. firms prosecute trademark infringement occurring abroad and whether the time and money spent on enforcement was supported by any cost-benefit analysis.

19. Interestingly, audience members also asked questions about business responsibilities in the U.S. trademark regime. One asked if subcontractors working for a trademark holder were responsible for trademark violations if goods were stolen from their facilities and sold on the street. Another inquired about the responsibility of the retailer to verify the legitimacy and origin of products received from their suppliers. While the seminar was intended to help Vietnamese companies register their trademark in the United States, these questions illustrate the ongoing climate of IPR insecurity in Vietnam.

10. Comment: The high level of attendance and staying power of the participants indicate that there is a real interest in trademark issues in the local business community. Unlike many seminars in which participants start drifting away after lunch, nearly all of the participants remained for the full day. The event ran way over time and the hotel eventually ejected the seminar in order to set up the room for another function. One hopes that this level of interest and the understanding that trademark protection is something of value to Vietnam businesses will eventually translate to better and more rigorous enforcement in Vietnam. Post will continue to support efforts to raise awareness of the issue.
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